IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2804 OF 2007

The State of Maharashtra. ..Applicant.
Vs.
Vilas Anant Gunjal. ..Respondent.

Mr.A.S.Shitole, APP. for the State.
Mr.U.B.Nigot for the Respondent.

CORAM : B.H.MARLAPALLE,J.
DATE : 23rd October, 2007.

P.C.

1. Heard Mr.Shitole, the learned A.P.P. and Mr. Nigot, the learned counsel for the respondent accused who has been acquitted by the learned Special Judge under the Prevention of Corruption Act vide his Judgment and Order dated 27.4.2007 in Special Case No.24 of 2004.

2. At the relevant time the accused was working as a Sr. Clerk in the Rehabilitation Office at Chas Kaman Project, Rajgurunagar, Dist. Pune and it was alleged that he had demanded an amount of Rs.5000/- from the complainant-P.W.No.1 Shri. Bapu Laxman Masalkar to change the boundaries of the land sought to be acquired under the Land Acquisition Act,1894 and from the ownership of the complainant. The learned Judge of the Special Court considered the testimony of P.W.No.1 Bapu Laxman Masalkar, P.W.No.2-Sanjog Dharma Kamble who had

acted as panch witness, P.W.No.4- Prabhakar K. Deshmukh who had passed the sanctioning order and P.W.No.3 Nandkumar J. Pinjan Investigating Officer. P.W.No.4 Prabhakar Deshmukh was the Collector. In his depositions before the Trial Court, he admitted that the accused was working as Awal Karkun and it was not within his powers to effect the change as was suggested by the complainant and such a change could be done only by the Collector. He also stated that the acquired land was already put in possession of Suman Daftari on 14.11.2003, as per the allotment order dated 6.11.2003. The Commissioner by confirming the said allotment had passed his order on 4.12.2003. The alleged demand was made on 10.12.2003, as against the handing over possession of the subject land to Suman Daftari on 14.11.2003. The Trial Court therefore, held that the demand itself could not be proved for effecting such change and the reason for demand did not inspire confidence. On the issue of recovery of the currency notes from the accused, the Trial Court has relied upon the decision of this court in the case of Yashwant N. Pingale Vs.State of Maharashtra reported in 1999 Cri. L.J. 1270 and held that mere recovery of powdered currency notes from the accused should not be considered as a circumstance pointing out his involvement in the offence per se. The Trial Court also noted that in the panchanama there was no mention whether anthracine

powder was found on the hook and button of the hip pocket of the full pant on the person of the accused. The Trial Court has considered the evidence of P.W.No.3 as well as P.W.No.1 and recorded a finding that even the trap could not be proved beyond doubts.

3. I am therefore, satisfied that the reasoning set out by the Trial Court does not call for reconsideration at the hands of this court. Hence, leave to appeal is refused and the application is rejected.

(B.H.MARLAPALLE, J.)